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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR-10-00039 SBA
)	
Plaintiff,)	STIPULATED REQUEST TO CONTINUE
)	HEARING DATE TO MAY 4, 2010 AND
v.)	TO EXCLUDE TIME UNDER THE
)	SPEEDY TRIAL ACT AND [PROPOSED]
)	ORDER
TOMMY ANDRE GATES,)	
)	
Defendant.)	Hearing Date: April 13, 2010
)	Time: 9:00 a.m.
)	

The above-captioned matter is set on April 13, 2010 before this Court for a status hearing. The parties jointly request that the Court continue the matter to May 4, 2010 at 9:00 a.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), between the date of this stipulation and May 4, 2010.

On January 14, 2010, the Grand Jury charged Mr. Gates with possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), and felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). For the most serious offense – the § 924(c) charge – Mr. Gates is subject to a mandatory minimum sentence of five years, and a statutory maximum of life imprisonment. He also faces a statutory maximum sentence of five years for

1 the drug trafficking charge and no more than ten years for the felon-in-possession of a firearm
2 charge.

3 The current status of the case is that the parties are negotiating this matter and anticipate
4 that there will be a negotiated disposition of the matter. In the meantime, the defense has
5 received discovery in this case and needs additional time to review and process the materials
6 provided and to discuss those materials with Mr. Gates. Additionally, the defense has requested
7 additional discovery, including nexus and trace reports on the guns recovered in this case, and
8 the government has agreed to provide those reports to the defense and the defense will need time
9 to review them. The defense also requires additional time to investigate the circumstances of the
10 offense and to collect Mr. Gates' prior conviction records to prepare an estimate of his
11 anticipated Guidelines range.

12 The requested continuance will allow the defense to complete its review of the discovery,
13 to investigate the underlying facts of the case, and to obtain and review relevant criminal history
14 records. For this reason, the parties agree that the failure to grant this continuance would
15 unreasonably deny counsel for defendant the reasonable time necessary for effective preparation,
16 taking into account the exercise of due diligence.

17 The parties further stipulate and agree that the ends of justice served by this continuance
18 outweigh the best interest of the public and the defendant in a speedy trial. Accordingly, the
19 parties agree that the period of time from the date of this Stipulation to May 4, 2010, should be
20 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)
21 and (B)(iv), for effective preparation of defense counsel, taking into account the exercise of due
22 diligence.

23 DATED: April 5, 2010

/S/
SKYE DAVIS
Assistant United States Attorney

25 DATED: April 5, 2010

/S/
ANGELA M. HANSEN

Assistant Federal Public Defender

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document. /S/ ANGELA M. HANSEN

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given defense counsel's need to complete her review of the discovery and to discuss it with her client, and given that the government has agreed to produce additional discovery that the defense will need time to review;

2. Given that the defense needs additional time to investigate the underlying facts of the case and to obtain relevant records to calculate defendant's sentencing Guidelines range;

3. Given that these above-listed tasks are necessary to the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence;

4. Given that the ends of justice served by this continuance outweigh the best interest of the public and the defendant in a speedy trial;

Based on these findings, IT IS HEREBY ORDERED that the STATUS date of April 13, 2010, scheduled at 9:00 a.m., before the Honorable Saundra Brown Armstrong, is vacated and reset for May 4, 2010, at 9:00 a.m. It is FURTHER ORDERED that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), from April 13, 2010 to May 4, 2010.

DATED:4/7/10


HON. SAUNDRA BROWN ARMSTRONG
United States District Judge

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